

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
ARLINGTON DIVISION**

TAMIKKO FIELDS,

Plaintiff,

v.

Case No. 3:20-cv-00622

PROCOLLECT, INC.,

Defendant.

**COMPLAINT**

NOW COMES Plaintiff, TAMIKKO FIELDS, through undersigned counsel, complaining of Defendant, PROCOLLECT, INC. as follows:

**NATURE OF THE ACTION**

1. This action is seeking redress for Defendant's violation(s) of the Fair Debt Collection Practices Act (the "FDCPA"), 15 U.S.C. § 1692 *et seq*, the Telephone Consumer Protection Act (the "TCPA"), 47 U.S.C. § 227 *et seq*, and the Texas Debt Collection Act (the "TDCA"), Tex. Fin. Code Ann. § 392 *et seq*.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.
3. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.
4. Venue in this district is proper under 28 U.S.C. § 1391(b)(2).

**PARTIES**

4. TAMIKKO FIELDS ("Plaintiff") is a natural person, over 18-years-of-age, who at all times relevant resided in Grand Prairie, Texas

5. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3).
6. Plaintiff is a "person" as defined by 47 U.S.C. § 153(39).

7. Plaintiff is a “consumer” as defined by Tex. Fin. Code Ann. § 392.001(1).

8. PROCOLLECT, INC. (“Defendant”) is a corporation organized and existing under the laws of Texas.

9. Defendant has a principal place of business at 12170 Abrams Road, Suite 100, Dallas, Texas 75243..

10. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6) as the principal purpose of Defendant’s business is the collection of debt.

11. Defendant is a “debt collector” as defined by 15 U.S.C. § 1692a(6) as it regularly collects or attempts to collect debts owed or due or asserted to be owed or due another.

12. Defendant is a “person” as defined by 47 U.S.C. § 153(39).

13. Defendant is a “debt collector” as defined by Tex. Fin. Code Ann. § 392.001(6) as it directly or indirectly engages in debt collection.

### **FACTUAL ALLEGATIONS**

14. At all times relevant, Plaintiff was the sole operator, possessor, and subscriber of the cellular telephone number ending in 8384.

15. At all times relevant, Plaintiff’s number ending in 8384 was assigned to a cellular telephone service as specified in 47 U.S.C. § 227(b)(1)(A)(iii).

16. At all times relevant, Plaintiff was financially responsible for her cellular telephone equipment and services.

17. Plaintiff sought dental services from Bravo! Dental.

18. Said dental services resulted in certain bills.

19. Those bills are a “debt” as defined by 15 U.S.C. § 1692a(5).

20. Those bills are a “consumer debt” as defined by Tex. Fin. Code Ann. § 392.001(2).

21. Those bills, once unpaid, were referred for collection.

22. On or around February 7, 2020, Plaintiff started to receive phone calls from Defendant seeking to collect on Plaintiff's \$815.25 balance.

23. On numerous occasions, Plaintiff answered.

24. Each time Plaintiff was met by an automated, machine-operated voice saying: "If this is Tamikko Fields, please press '1'..."

25. One day, Plaintiff pressed "1."

26. Plaintiff experienced momentary pause prior to being connected to Defendant's representative.

27. Plaintiff argued she did not owe the amount sought.

28. Unsuccessful, Plaintiff told Defendant "don't call me anymore!"

29. Unfortunately, these phone calls continued.

30. To date, no less than 20 phone calls have been received from number(s) leading back to Defendant – including, (214) 382-4871

31. Defendant's phone calls resulted in aggravation that accompanies persistent and unwanted phone calls, anxiety, distress, increased risk of personal injury resulting from distraction, intrusion upon and occupation of Plaintiff's cellular telephone capacity, invasion of privacy, loss of concentration, nuisance, stress, and wasted time.

32. Concerned with having had her rights violated, Plaintiff sought counsel to ensure that Defendant's unlawful collection practices stopped.

33. Accordingly, Plaintiff is forced to expend energy and/or time consulting with attorneys to put an end to Defendant's unlawful collection practices.

## CLAIMS FOR RELIEF

### COUNT I:

#### Fair Debt Collection Practices Act (15 U.S.C. §§ 1692 *et seq.*)

34. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

#### Violation(s) of 15 U.S.C. § 1692d

35. Section 1692d provides:

[a] debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

15 U.S.C. § 1692d(5).

36. Defendant violated 15 U.S.C. § 1692d(5) by repeatedly or continuously calling Plaintiff after being asked to stop. *See Chiverton v. Federal Financial Group, Inc.*, 399 F. Supp. 2d 96 (D. Conn. 2005) (finding that repeated calls after the consumer had asked debt collector to stop calling amounted to harassment).

37. The phone calls at issue were intended to be annoying, abusive, or harassing.

38. Plaintiff may enforce the provisions of 15 U.S.C. § 1692d(5) pursuant to section k of the FDCPA (15 U.S.C. § 1692k) which provides "any debt collector who fails to comply with any provision of [the FDCPA] with respect to any person is liable to such person in an amount equal to the sum of -

- (1) any actual damage sustained by such person as a result of such failure;
- (2)

- (A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000.00; or
- (3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with reasonable attorney's fees as determined by the court.

**WHEREFORE**, Plaintiff requests the following relief:

- A. a finding that Defendant violated 15 U.S.C. § 1692d(5);
- B. an award of any actual damages sustained by Plaintiff as a result of Defendant's violation(s);
- C. an award of such additional damages, as the Court may allow, but not exceeding \$1,000.00;
- D. an award of costs of this action, together with reasonable attorney's fees as determined by this Court; and
- E. an award of such other relief as this Court deems just and proper.

**COUNT II:**  
**Telephone Consumer Protection Act (47 U.S.C. § 227 *et. seq.*)**

39. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

40. Defendant placed or caused to be placed no less than 20 non-emergency calls, including but not limited to the aforementioned collection calls, to Plaintiff's cellular telephone utilizing an automatic telephone dialing system ("ATDS") or an artificial or prerecorded voice without Plaintiff's consent in violation of 47 U.S.C. § 227 (b)(1)(A)(iii).

41. Upon information and belief, based on the automated, machine-operated responses Plaintiff received, Defendant employed an ATDS to place calls to Plaintiff's cellular telephone.

42. Upon information and belief, based on the “pause” Plaintiff experienced, Defendant employed an ATDS to place calls to Plaintiff’s cellular telephone.

43. Upon information and belief, the ATDS employed by Defendant transfers phone calls to an agent once a human voice is detected, hence the pause.

44. Upon information and belief, the ATDS employed by Defendant has the *capacity* – (A) to store or produce telephone numbers to be called, using a random or sequential number generator; and (B) to dial such numbers. *See* 47 U.S.C. § 227(a)(1)(A)-(B).

45. Upon information and belief, Defendant acted through its agents, employees, and/or representatives at all times relevant.

46. As result of Defendant’s violations of 47 U.S.C. §227 (b)(1)(A)(iii). Plaintiff is entitled to receive \$500.00 in damages for each violation.

47. As result of Defendant’s *knowing and willful violations* of 47 U.S.C. §227 (b)(1)(A)(iii), Plaintiff is entitled to receive up to \$1,500.00 in treble damages for each violation.

WHEREFORE, Plaintiff requests the following relief:

- A. a finding that Defendant violated 47 U.S.C. § 227 *et seq.*;
- B. an award of statutory damages of at least \$500.00 for each and every violation;
- C. an award of treble damages of up to \$1,500.00 for each and every violation; and
- D. an award of such other relief as this Court deems just and proper.

**COUNT III**  
**Texas Debt Collection Act (Tex. Fin. Code Ann. § 392 *et seq.*)**

48. All paragraphs of this Complaint are expressly adopted and incorporated herein as though fully set forth herein.

49. Subsection 392.302(4) of the Texas Finance Code provides:

[i]n debt collection, a debt collector may not oppress, harass, or abuse a person by:

- (4) causing a telephone to ring repeatedly or continuously, or making repeated or continuous telephone calls, with the intent to harass a person at the called number.

Tex. Fin. Code Ann. § 392.302(4).

50. Defendant violated Tex. Fin. Code Ann. § 392.302(4) by continuing to place phone calls to Plaintiff in spite of Plaintiff's request(s) that they stop.

51. Plaintiff may enforce the provisions of Tex. Fin. Code Ann. § 392.302(4) pursuant to Tex. Fin. Code Ann. § 392.403 which provides:

- (a) A person may sue for:
  - (1) injunctive relief to prevent or restrain a violation of this chapter; and
  - (2) actual damages sustained as a result of a violation of this chapter.
- (b) A person who successfully maintains an action under Subsection (a) is entitled to attorney's fees reasonable related to the amount of work performed and costs.

**WHEREFORE**, Plaintiff requests the following relief:

- A. a finding that Defendant violated Tex. Fin. Code Ann. § 392.302(4);
- B. an award of injunctive relief pursuant to Tex. Fin. Code Ann. § 392.403(a)(1);
- C. an award of actual damages in an amount to be determined pursuant to Tex. Fin. Code Ann. § 392.403(a)(2);
- D. an award of reasonable attorney's fees and costs in an amount to be determined pursuant to Tex. Fin. Code Ann. § 392.403(b); and
- E. an award of such other relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands a trial by jury of any and all issues in this action so triable of right.

DATED: March 11, 2020

Respectfully submitted,

**TAMIKKO FIELDS**

By: /s/ Joseph S. Davidson

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